



DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Application No. D-11758]

Notice of Proposed Exemption involving AT&T Inc. (Together with AT&T Inc.'s Affiliates, AT&T or the Applicant)

Located in Dallas, TX

AGENCY: Employee Benefits Security Administration, U.S.

Department of Labor.

ACTION: Notice of Proposed Exemption

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed individual exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974, as amended (ERISA or the Act), and the Internal Revenue Code of 1986, as amended (the Code). The proposed transactions involve AT&T, the AT&T Pension Benefit Plan (the Plan), and the SBC Master Pension Trust (the Trust). The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries.

EFFECTIVE DATE: If granted, this proposed exemption will be effective as of September 1, 2013.

DATES: Written comments and requests for a public hearing on the proposed exemption should be submitted to the Department within 55 days from the date of publication of this Federal Register Notice.

ADDRESSES: Comments and requests for a hearing should state:

(1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the proposed exemption and the manner in which the person would be adversely affected by the exemption, if granted.

A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. All written comments and requests for a public hearing concerning the proposed exemption should be sent to the Office of Exemption Determinations, Employee Benefits Security Administration, Room N-5700, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington DC 20210, Attention: Application No. D-11758. Interested persons are also invited to submit comments and/or hearing requests to EBSA via email or FAX. Any such comments or requests should be sent either by email to: *moffitt.betty@dol.gov*, or by FAX to (202) 219-0204 by the end of the scheduled comment period. The

application for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N-1513, 200 Constitution Avenue NW, Washington, DC 20210. Comments and hearing requests will also be available online at www.regulations.gov and www.dol.gov/ebsa, at no charge.

WARNING: If you submit written comments or hearing requests, do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments and hearing requests may be posted on the Internet and can be retrieved by most Internet search engines.

FOR FURTHER INFORMATION CONTACT: Anna Mpras Vaughan, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693-8565. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: This document contains a notice of proposed exemption that, if granted, would provide exemptive relief from sections 406(a)(1)(A), 406(a)(1)(B), 406(a)(1)(D),

406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A), 4975(c)(1)(B), 4975(c)(1)(D) and 4975(c)(1)(E) of the Code. The proposed exemption has been requested by AT&T pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (76 FR 66637, 66644, October 27, 2011). Effective December 31, 1978, section 102 of the Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor. Accordingly, this notice of proposed exemption is being issued solely by the Department.

SUMMARY OF FACTS AND REPRESENTATIONS¹

Background

1. AT&T Inc. (together with its affiliates, AT&T), formerly known as SBC Communications Inc., is a holding company incorporated in 1983 under the laws of the State of Delaware that has its principal executive offices in Dallas, Texas.

¹ The Summary of Facts and Representations is based on the Applicant's representations and does not reflect the views of the Department.

AT&T, a provider of telecommunications services, offers its services and products to consumers in the U.S. and to businesses and other providers of telecommunications services worldwide. The services and products that AT&T offers vary by market, and include: wireless communications, local exchange services, long-distance services, data/broadband and Internet services, video services, telecommunications equipment, managed networking and wholesale services.

2. AT&T is the sponsor of the AT&T Pension Benefit Plan (the Plan). Effective December 14, 2010, the Plan was amended (the 2010 Amendment) to name the Plan's named fiduciary, AT&T Services, as the plan administrator. AT&T Services, pursuant to delegation (the Delegation) from its Board of Directors (the Board) dated July 1, 2011, delegated to the AT&T Inc. Benefit Plan Investment Committee (the Committee) all powers and authority that may be necessary or appropriate to the establishment, qualification, administration, maintenance, and operation of the SBC Master Pension Trust (the Trust) established as part of the Plan. Notwithstanding its power to delegate authority, the Committee retains, and may not delegate, the authority to authorize "company-directed" investments (i.e., investments that have not been delegated to a third party investment manager) in amounts greater than \$200,000,000.

3. In addition to AT&T Services and the Committee, other Plan fiduciaries include Brock Fiduciary Services LLC (the Independent Fiduciary), an investment manager that is independent of AT&T Inc.

The Issuer

4. AT&T Mobility II LLC (the Issuer), an indirect wholly-owned subsidiary of AT&T Inc., is a Delaware limited liability company that has its principal executive offices in Atlanta, GA. The Issuer provides the wireless services marketed under AT&T's name and serves approximately 107 million mobile users over a nationwide network that spans all major metropolitan areas.

The Applicant represents that AT&T's wireless business is the fastest growing part of AT&T's business. The Issuer earned operating revenues totaling \$66.763 billion and income totaling \$16.532 billion in the year ended December 31, 2012. During the same year, AT&T's total revenue was \$127.434 billion and its cash from operating activities was \$39.2 billion. Revenue from wireless data increased from \$4.3 billion in 2006 to \$31.8 billion in 2012. The Applicant states that the continued financial success of AT&T, anchored by the growth of the Issuer which accounted for approximately 53% of the total operating revenue for all of AT&T's business segments in 2012, has allowed

AT&T to pay \$10.2 billion in dividends to shareholders in 2012 which was the 29th consecutive year of annual dividend increases for AT&T.

The Plan

5. The Plan is a noncontributory qualified defined benefit pension plan covering substantially all U.S. bargained and non-bargained employees of the participating subsidiaries of AT&T. The Plan provides retirement, disability, death and certain other ancillary benefits to Plan participants. The Plan was originally established effective as of January 1, 1984, as the Southwestern Bell Corporation Management Pension Plan. Effective May 1, 1992, the name of the Plan was changed to the SBC Pension Benefit Plan, and effective November 18, 2005, the name of the Plan was changed to the AT&T Pension Benefit Plan. As of December 31, 2012, there were approximately 551,187 employees participating in the Plan.

The Trust

6. The Trust was established pursuant to a Declaration of Trust originally effective as of January 1, 2007, and amended and restated in its entirety effective as of February 1, 2012, by and between AT&T Services and the Trustee. The Trust holds

assets of the Plan and contributions required to fund the Plan are made to and held under the Trust. The assets of the Trust are invested, in small part, in employer securities issued by AT&T. In this regard, as of the 2012 year-end, the aggregate fair market value of these investments was \$72,920,000, which constituted approximately 0.16% of the fair market value of the Trust's total assets. It is AT&T's belief that these investments are covered under the statutory exemption described in section 408(e) of ERISA.²

Minimum Required Contributions

7. The Applicant represents that AT&T has always satisfied its funding obligations and has never asked for a waiver of those obligations. The Applicant represents that, in fact, AT&T generally has voluntarily funded its pension obligations in advance of the required dates, and notes that AT&T made a voluntary \$1 billion cash contribution in 2011.

8. The Applicant represents that as of August 2013, its anticipated minimum required funding contributions for the Plan for the years 2013 through 2019 are as follows:

| <u>Calendar Year</u> | <u>Minimum Required</u> |
|----------------------|-------------------------|
|----------------------|-------------------------|

² The Department expresses no opinion herein as to the applicability of the statutory exemption provided by section 408(e) of the Act with respect to these investments.

| Beginning | Contribution (billions) |
|-----------------|-------------------------|
| January 1, 2013 | \$0.175 |
| January 1, 2014 | \$1.2 |
| January 1, 2015 | \$1.2 |
| January 1, 2016 | \$0.4 |
| January 1, 2017 | \$0.0 |
| January 1, 2018 | \$0.0 |
| January 1, 2019 | \$0.0 |
| Total | \$2.975 |

The Applicant represents that these minimum required contribution estimates are based on certain assumptions, including that the Plan's assets will earn an annual return of 12.0% for 2013 and 2014 and 7.75% thereafter, and that interest rates rise beginning in January 2013 and increase to pre-financial crisis levels by 2017.

The Preferred Interests

9. The Applicant proposes to make an in-kind contribution (the Contribution) of 320 million Series A Cumulative Perpetual Preferred Membership Interests of the Issuer (i.e., the Preferred Interests), a newly created class of preferred membership interests, to the Trust. In order to effectuate the transfer, the Issuer will be recapitalized by amending its governing documents to provide for an additional class of equity consisting of the Preferred Interests. The Preferred Interests will be issued by the Issuer to its parent company, AT&T Inc.,

and then contributed in their entirety by AT&T Inc. to the Trust. The Preferred Interests are non-voting and do not provide for participation in the management of the Issuer. Currently, the only membership interests issued by the Issuer are common membership interests, all of which are held by AT&T.

10. The Preferred Interests will accrue, pursuant to the Second Amended and Restated Limited Liability Company Agreement of AT&T Mobility II LLC (the LLC Agreement), cumulative distributions of \$1.75 per Preferred Interest per annum, payable quarterly upon declaration by the Issuer (the Distributions). At any time when Distributions on any outstanding Preferred Interests are in arrears for purposes of the LLC Agreement: (i) the Issuer will not be permitted to make any transfer of cash to its parent, AT&T Inc., or any other member of the Issuer, whether pursuant to a loan, equity distribution or any other arrangement; and (ii) AT&T Inc. will not be permitted to declare any dividends on or make any repurchases of its common stock. The Applicant represents that it is in AT&T's financial interest, and AT&T intends to exercise its ownership rights in the Issuer, to cause the Issuer to pay the Distributions each quarter in accordance with the LLC Agreement.

11. The Preferred Interests will rank senior to any other class or series of equity interests in the Issuer, now in

existence or created in the future, in respect of the right to receive Distributions and the right to receive payments or distributions out of the assets of the Issuer upon voluntary or involuntary liquidation, dissolution or winding up of the Issuer. Therefore, in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Issuer, the Trust, as the holder of the Preferred Interests, will be entitled to receive the liquidation value of the Preferred Interests and any accrued cumulative but unpaid Distributions, before any liquidating distribution or payment is made to the holders of any other class or series of equity interests of the Issuer. The liquidation value of the Preferred Interests equals \$25.00 per Preferred Interest (i.e., \$8 billion in the aggregate) plus any accrued and unpaid Distributions.

12. The fair market value of the Preferred Interests at any point in time will be determined by the Independent Fiduciary in its sole discretion based on certain factors, including the net present value of the expected distributions and the Option Price using a discount rate that reflects the assumed term³ as of the valuation date and an appropriate

³ The Applicant explains that the assumed term for valuation purposes is the five year period during which the Preferred Interests cannot be put to or called by AT&T, absent a Change of Control or other acceleration event identified in the Contribution Agreement.

discount for the non-public nature of the Preferred Interests. The Independent Fiduciary estimates that the Preferred Interests will have a fair market value of approximately \$9.2-\$9.5 billion as of the date of the Contribution (the Contribution Date). The Independent Fiduciary will re-value the Preferred Interests immediately prior to the Contribution Date using the same methodology set forth in its original valuation report, absent extraordinary circumstances. The Independent Fiduciary will also value the Preferred Interests on a quarterly basis after the Contribution Date, using the same methodology, absent extraordinary circumstances, and in accordance with the terms of the IMA.

The Contribution Agreement

13. By their terms, as described in the Contribution Agreement, the Preferred Interests are transferable to AT&T upon exercise of a call option (the Call Option) and a put option (the Put Option), as described below.

Call Option. AT&T and the Issuer (individually or collectively, the Purchaser) will have the right to purchase from the Trust all or any portion of the Preferred Interests, at a price per Preferred Interest equal to the Option Price, at any time and from time to time: (i) during the 12 month period

following the date AT&T Inc. issues an annual report reflecting that the Plan is fully funded as determined under U.S. GAAP and calculated by including the fair market value of the Preferred Interests; (ii) on or after a "Change of Control" of the Issuer, as such term is defined in the Contribution Agreement; or (iii) on or after the fifth anniversary of the Contribution Date. The Call Option will be exercisable upon 30 days' prior written notice by the Purchaser.

Put Option. The Trust will have the right to require AT&T Inc. to purchase the Preferred Interests, at a price per Preferred Interest equal to the Option Price, at any time and from time to time on or after the earlier of: (i) the first date that the Issuer's debt-to-total-capitalization ratio exceeds that of AT&T Inc.;⁴ (ii) the date on which AT&T Inc. is rated below investment grade for two consecutive calendar quarters by

⁴ The Contribution Agreement provides that the Issuer's "debt-to-total-capitalization ratio" means the Issuer's "Debt" divided by the sum of the Issuer's "Debt" and total members' equity including outstanding Preferred Interests (as taken directly from the Issuer's most recently prepared U.S. GAAP balance sheet). The term "Debt" means, without duplication (i) all obligations of the entity for borrowed money or with respect to deposits or advances of any kind, and (ii) all obligations of the entity evidenced by bonds, debentures, notes or similar instruments. Additionally, AT&T Inc.'s "debt-to-total-capitalization ratio" means AT&T Inc.'s Debt divided by the sum of AT&T Inc.'s Debt and total shareholders' equity (as taken directly from AT&T Inc.'s most recently prepared U.S. GAAP balance sheet).

at least two of the following rating agencies: Standard & Poor's Ratings Services, Moody's Investor Services, Inc. or FitchRatings, Inc.;⁵ (iii) a "Change of Control" of the Issuer, as such term is defined in the Contribution Agreement and described below; or (iv) the seventh anniversary of the Contribution Date; provided, however, that except in the event of a Change of Control of the Issuer, AT&T Inc. will not be required to purchase more than 106,666,667 Preferred Interests in any 12 month period. Upon the Independent Fiduciary's request, as of the end of any calendar quarter, AT&T Inc. will, within forty-five (45) calendar days after the end of such calendar quarter, certify as to whether the Issuer's debt-to-total-capitalization ratio exceeds that of AT&T Inc. The Put Option will be exercisable by the Independent Fiduciary on behalf of the Trust upon 60 days' prior written notice to AT&T Inc. The obligation to purchase the Preferred Interests upon exercise of the Put Option may be consummated by any Purchaser (including, for purposes of clarity, any affiliate of AT&T).

Option Price. The Option Price per Preferred Interest is defined as the greater of: (i) the fair market value of the

⁵ In this instance the Put Option is triggered by a downgrade of AT&T Inc.'s credit rating rather than a downgrade of the Issuer's credit rating because the Issuer is assigned the same credit rating as AT&T Inc. and has no independent rating of its own.

Preferred Interest, determined by the Independent Fiduciary as of the last day of the calendar quarter preceding the date of notice of exercise of a Call Option or Put Option, as the case may be, without regard to certain prior events (the Prior Events),⁶ or, for a Preferred Interest that cannot be purchased due to certain limitations noted in the "Put Option" description, the fair market value of the Preferred Interest, determined by Brock as of the last day of the calendar quarter immediately preceding the date such Preferred Interest is actually purchased by AT&T Inc., without regard to the Prior Events; and (ii) the sum of \$25.00 plus any accrued and unpaid Distributions.

Change of Control. The Contribution Agreement provides that, on the occurrence of any Change of Control, AT&T may exercise or assign its Call Option to the Issuer or any successor owner of 50% or more of the capital or profits

⁶ Such events include, with respect to the Call Option: (i) the twelve month period following the date AT&T issues an annual report reflecting the fully funded status of the Plan (on a U.S. GAAP basis); and (ii) the period on or after a Change of Control of the Issuer, and with respect to the Put Option: (i) the first date that the Issuer's debt-to-total-capitalization ratio exceeds that of AT&T; (ii) the date on which AT&T is rated below investment grade for two consecutive calendar quarters by at least two of the following rating agencies: Standard & Poor's Ratings Services, Moody's Investor Services, Inc. or FitchRatings, Inc.; and (iii) the period on or after a Change of Control of the Issuer.

interest (or equity) of the Issuer (exclusive of the Preferred Interests). If the Call Option is not exercised upon a Change of Control, the parties will negotiate in good faith to determine "appropriate treatment"⁷ of the Preferred Interests, which will be subject to the approval of the Independent Fiduciary in its sole discretion. If no agreement can be reached within 60 days of the Change of Control, the Put Option will become immediately exercisable in full, thereby giving the Independent Fiduciary the right to require AT&T to purchase all or any portion of the Preferred Interests at the Option Price, except that: (i) the limitation on the number of Preferred Interests that AT&T may be required to purchase in any twelve month period as described above will not apply; and (ii) AT&T will have a period of up to one year to pay the Option Price. Notwithstanding the foregoing, in no event shall AT&T and the Issuer authorize the transfer of the Preferred Interests to any

⁷ The Applicant represents that "appropriate treatment" refers to changes in the structure or features of the Preferred Interests that would protect their status, terms and conditions, and hence, value, in the context of a new business structure that could result from a Change of Control transaction. The Applicant explains that this type of language is often found in the terms of various equity instruments because it is impossible to predict what a future capital structure might be upon a Change of Control. However, the Applicant stresses that if the Independent Fiduciary determines that it cannot obtain such appropriate treatment, it has the unilateral right to trigger the Put Option.

plan not covered by the Trust except in the event of an occurrence of a Change of Control as defined herein.

Settlement. At the sole election of AT&T, Inc., or any other Purchaser, as the case may be, payment of the Option Price may be made in: (i) fully paid and non-assessable shares of AT&T Inc. common stock (AT&T Shares);⁸ (ii) cash; or (iii) a combination of AT&T Shares and cash. Any AT&T Shares delivered to pay all or a portion of the Option Price will be valued for the purpose of determining the number of AT&T Shares to be delivered to satisfy the Option Price, at the average closing price of the 20 trading days preceding the date of notice of exercise (or, in the case of a delayed payment pursuant to the twelve month payment period described herein in connection with a Change of Control, the 20 trading days preceding the date of payment).

The Contribution Agreement provides that in no event will AT&T Inc. or any other Purchaser, as the case may be, be required to deliver more than 250 million AT&T Shares (the Capped Number) to the Trust in settlement of the Option Price

⁸ Because AT&T Shares may be issued in payment of the Option Price, AT&T and the Trust have executed a Registration Rights Agreement, providing the Trust certain rights in connection with the registration of the AT&T Shares for sale to the public. The Registration Rights Agreement is described in more detail below.

for the Preferred Interests; provided, however, the Purchaser may, in its discretion, deliver more than the Capped Number of AT&T Shares.⁹ In the event that the Purchaser, through delivery of the Capped Number of AT&T Shares and AT&T Shares in addition to the Capped Number of AT&T Shares, if any, does not deliver the full number of AT&T Shares otherwise deliverable in settlement of the Option Price for the Preferred Interests, the Purchaser will use its best efforts to authorize and deliver additional AT&T Shares. Finally, the Purchaser may elect, solely at its option, to settle the Option Price, in whole or in part, by delivering cash.

The Contribution Agreement provides further that, in the event that the Purchaser, through delivery of the Capped Number of AT&T Shares and AT&T Shares in addition to the Capped Number of AT&T Shares, if any, does not deliver the full number of AT&T Shares otherwise deliverable in settlement of the Option Price

⁹ The Capped Number is equal to or less than the number of authorized but unissued AT&T Shares that are not reserved for future issuance on the date of the Contribution Agreement. According to the Applicant, the Capped Number is an accounting concept necessary to the characterization of the Preferred Interests as equity. Furthermore, the Applicant notes that AT&T can use more than the number of Capped Shares to satisfy its purchase obligation and the number and value of authorized but unissued AT&T Shares far exceeds the value of the Preferred Interests. Therefore, according to the Applicant, the Capped Number does not present a practical limitation on the right of the Independent Fiduciary to exercise the Plan's rights under the Put Option.

for the Preferred Interests (resulting in a shortfall), the Preferred Interests for which neither AT&T Shares nor cash have been delivered will remain outstanding, and the Plan will continue to receive its Distributions, in accordance with the terms thereof.

The Contribution Agreement also provides that, in the event of a merger, reorganization, consolidation, recapitalization, separation, split-up, liquidation, share combination, stock split, stock dividend, or other change in the corporate structure of AT&T affecting the AT&T Shares (including a conversion of the AT&T Shares into cash or other property), an adjustment may be made in the number and class of shares that may be delivered in settlement of the Option Price for the Preferred Interests, as determined by AT&T, to prevent dilution or accretion with respect to the Capped Number and reflect such changes in corporate structure (e.g. substitution of successor shares), provided, that, if AT&T does not make any such adjustment or the Independent Fiduciary disagrees with the adjustment, the Independent Fiduciary can request that AT&T modify its determination and if AT&T fails to do so, the parties shall resolve the matter in accordance with the dispute resolution procedures specified in the Investment Management Agreement by and between AT&T Services, Inc., the AT&T Benefit

Plan Investment Committee, AT&T Inc., and Brock Fiduciary Services LLC or any successor thereto, effective on or about September 9, 2013 (the IMA).

Termination or Resignation of the Independent Fiduciary. The Applicant states that, in the event of a termination or resignation by the Independent Fiduciary, the Independent Fiduciary will continue to serve as the Independent Fiduciary until a successor is appointed, provided that the Committee must use its reasonably commercial efforts to hire a successor within a specified period of time, in accordance with the terms of the IMA. Such successor independent fiduciary shall, among other things, acknowledge in writing the assignment to it of the Contribution Agreement and the IMA and its acceptance of all rights and responsibilities of the Independent Fiduciary thereunder.

Reasons for Entering into the Exemption Transactions

14. The Applicant represents that the Contribution would benefit the Plan. In this regard, the Applicant states that the Contribution would be substantially in excess of the legally required Plan contributions and would allow AT&T to enhance the sound funding of the Plan. In that respect, the Applicant represents that the value of the Contribution substantially

exceeds the amount of contributions that AT&T will be required to make to the Plan for 2013 and for a number of years thereafter. Pursuant to section 412 of the Code, as amended by 2012 legislation titled "Moving Ahead for Progress in the 21st Century" (MAP-21), AT&T anticipates that its minimum required funding contribution for 2013 would be approximately \$175 million. The Applicant represents that because of capital structure requirements relating to AT&T's business operations, AT&T could not be expected to make cash contributions substantially in excess of the minimum amount required to meet the funding requirements of section 412 of the Code. However, if the proposed exemption is granted, AT&T will contribute Preferred Interests to the Trust in an amount equal to approximately \$9.2-\$9.5 billion. Therefore, the Applicant states that the Trust will receive assets worth approximately \$9 billion in excess of the legally required contributions to the Plans for 2013. The Applicant estimates that the expected annual cash flow payable on the Preferred Interests alone would exceed the 2013 minimum required contribution.

15. The Applicant notes that the Preferred Interests will accrue cumulative Distributions of \$1.75 per Preferred Interest per annum, payable quarterly upon declaration by the Issuer. The Applicant believes that this return is very favorable given

the returns that otherwise can be obtained on investments in the current market environment. The Applicant states that the Distributions alone will provide \$560 million in annual cash flow to the Trust, approximately 11% of the Trust's annual cash flow requirements to pay benefits, thereby substantially reducing the Trust's need to liquidate other assets to meet its benefit payment obligations.

The Applicant further represents that the Contribution would also reduce the necessary investment return on other Trust assets required to satisfy historic annual benefit payments, thereby providing greater security to Plan participants and beneficiaries. In this regard, absent the Contribution, the Applicant states that the Trust would have to earn at least 9.3% on its existing investment portfolio to satisfy its historic annual benefit payments without requiring the Trust to liquidate additional assets. However, the Applicant states that due to the attractive, highly secure cash yield on the Preferred Interests, the remaining Trust assets would have to earn only an 8% rate of return.

Benefits to AT&T

16. The Applicant notes that the Contribution will also benefit AT&T in that the Contribution may be viewed favorably by

lenders and the capital markets, and will benefit its business operations by giving AT&T the flexibility to invest further in its business. In this regard, the Applicant explains that the Issuer represents a substantial portion of the value of AT&T. The Applicant notes that the Contribution would in effect dedicate a portion of this valuable asset to satisfying the liabilities of the Plan. The Applicant suggests that AT&T's business success is, in turn, important to the continued existence of the Plan and its ability to pay its liabilities.

Exemptive Relief Requested

17. AT&T requests exemptive relief from sections 406(a)(1)(A), 406(a)(1)(B), 406(a)(1)(D), 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2) and 407(a) of ERISA with respect to the acquisition, holding and disposition of the Preferred Interests by the Plans, and other related transactions entered into in accordance with the Contribution Agreement.

18. The Applicant believes that absent the requested relief, the Contribution and the exercise of the Call Option or the Put Option (as contemplated by the Contribution Agreement) would violate section 406(a)(1)(A) of ERISA. Section 406(a)(1)(A) of ERISA provides that a fiduciary with respect to a plan shall not cause the plan to engage in a transaction if he

knows or should know that such transaction constitutes a direct or indirect sale or exchange of any property between the plan and a party in interest. Under DOL Regulations, section 2509.94-3, an in-kind contribution to a defined benefit pension plan would be prohibited under section 406(a)(1)(A) of ERISA, because it reduces the funding obligation of the plan sponsor.

AT&T also requests exemptive relief from sections 406(a)(1)(B) and 406(b)(1) with respect to certain benefits to AT&T ancillary to the Contribution. For example, the Applicant states that AT&T will claim a deduction under section 404 of the Code for the fair market value of the Preferred Interests on the Contribution Date. Further, the Contribution will preserve cash for application towards AT&T's operations and investments, that will, among other things, maintain AT&T's debt metrics and avoid dilution of shareholder value. Section 406(a)(1)(D) prohibits the use of Plan assets for the benefit of a party in interest, and section 406(b)(2) prohibits a fiduciary from acting in its individual or any other capacity in any transactions involving the Plan on behalf of a party whose interests are adverse to the interests of the Plan or its participants or beneficiaries. The Applicant believes that relief from section 406(a)(1)(D) would avoid arguments that the above referenced (or other) ancillary

benefits to AT&T resulting from the Contribution violate the prohibited transaction provisions of ERISA and the Code.

Section 406(a)(1)(E) of ERISA provides that a fiduciary with respect to a plan shall not cause the plan to engage in a transaction if he knows or should know that such transaction constitutes a direct or indirect acquisition, on behalf of the plan, of any employer security in violation of section 407(a). Section 406(a)(2) of ERISA prohibits a fiduciary who has authority or discretionary control of plan assets to permit the plan to hold any employer security if he knows or should know that holding such security violates section 407(a) of ERISA. Section 407(a)(1) of ERISA states that a plan may not acquire or hold any employer security that is not a qualifying employer security. Section 407(a)(2) of ERISA states that a plan may not acquire any qualifying employer security (or qualifying employer real property) if immediately after such acquisition the aggregate fair market value of the employer securities (and employer real property) held by the plan exceeds 10% of the fair market value of the assets of the plan. Section 407(d)(5) of ERISA defines the term "qualifying employer security" to mean an employer security which is a stock, a marketable obligation, or an interest in certain publicly traded partnerships.

The Applicant states that the Preferred Interests are not "qualifying employer securities" within the meaning of section 407(d)(5) of ERISA because they do not constitute stock, marketable obligations, or interests in a publicly traded partnership. Furthermore, the Applicant states that the Plan will hold 100% of the Preferred Interests. The Applicant represents that as of December 31, 2012, the fair market value of Plan assets held by the Trust was approximately \$45.06 billion and the Contribution of the Preferred Interests will result in the Plan holding employer securities and employer real property in excess of 10% of its total assets immediately after the Contribution of the Preferred Interests.

Similarly, the Applicant believes that if the consideration paid to the Trust in connection with the exercise of the Put Option or the Call Option is in the form of shares of AT&T Shares, even though the AT&T Shares would be "qualifying employer securities," their value may exceed 10% of the total assets of the Plan, and it may not be in the best interests of the Plan to require an immediate forced sale of such AT&T Shares at any particular point in time.

Further, AT&T requests exemptive relief under sections 406(a)(1)(B) and 406(b)(1) related to the provisions in the Contribution Agreement that, in the event that the Independent

Fiduciary exercises its Put Option (i) other than on account of a Change of Control, limit the number of Preferred Interests that AT&T can be required to purchase in any 12-month period, (ii) in the event of a Change of Control, allow AT&T to defer the purchase of Preferred Interests for up to 12 months (collectively, the "deferral provisions") or (iii) in the event the limitation on the maximum number of shares (i.e., the "Capped Number") that AT&T is required to deliver in payment of the Option Price results in a deferral of the purchase of any of the Preferred Interests. Relief with respect to the deferral provisions would avoid arguments that the deferral provisions are extensions of credit in violation of the above-cited sections of ERISA and the Code.

Section 406(b)(1) of ERISA provides that a fiduciary with respect to a plan shall not deal with the assets of the plan in his or her own interest or for his or her own account. The Applicant states that it is possible that the Contribution could violate that section of ERISA because of any ancillary benefits to AT&T of the excess funding to the Trust. Additionally, section 406(b)(2) of ERISA provides that a fiduciary with respect to a plan shall not in his individual or in any other capacity act in any transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to

the interests of the plan or the interests of its participants or beneficiaries. The Applicant notes that the Contribution and its related agreements may also violate section 406(b)(2) of ERISA because in effecting the Contribution and its related agreements and arrangements, AT&T will be acting on behalf of the Plan and on behalf of another party (itself) whose interests are adverse to those of the Plan.

The Independent Fiduciary

19. The Independent Fiduciary, a wholly owned subsidiary of Brock Capital Group, has been appointed by AT&T Services to serve as an independent fiduciary on behalf of the Plan and the Plan's participants and beneficiaries with respect to the Contribution, pursuant to the Independent Fiduciary Agreement dated May 1, 2012, by and among AT&T Services, AT&T Inc. and Brock (the Independent Fiduciary Agreement). In addition, the Independent Fiduciary has been appointed to serve as the investment manager for the Plan and the Plan's participants and beneficiaries with respect to the holding, management and disposition of the Preferred Interests, pursuant to the IMA, and has full discretion to manage that portion of the Plan's assets held by the Trust.

20. The Independent Fiduciary represents that it is independent of and unrelated to AT&T, and has not previously provided services to AT&T. Further, the Independent Fiduciary does not directly or indirectly receive any compensation or other consideration from AT&T. The Independent Fiduciary's fees and expenses as independent fiduciary will be paid by the Trust. The Independent Fiduciary's compensation for its services is not contingent upon or in any way affected by the Independent Fiduciary's decisions.

21. The Independent Fiduciary represents that it is an investment adviser registered under the Investment Advisers Act of 1940, as amended, and is qualified to act as an "investment manager," as that term is defined in section 3(38) of ERISA, for the Plan. In addition, the Independent Fiduciary represents that it has extensive experience as an appraiser of the value of non-publicly traded securities, including securities of the same type as the Preferred Interests. Moreover, the Independent Fiduciary calls upon the services of members of Brock Capital Group who can provide the expertise required to appraise the value of employer securities contributed to employee benefit plans.

22. The Independent Fiduciary will discharge its duties in accordance with the terms of the Independent Fiduciary Agreement

and the IMA (and successors to these documents). Pursuant to the Independent Fiduciary Agreement, the Independent Fiduciary's responsibilities include: (i) determining the value of the Contribution; (ii) determining whether the terms and conditions of the Preferred Interests are prudent and fair to, and in the interest of, the Plan and Trust; (iii) reporting its foregoing determinations in a written report to AT&T and the Committee; (iv) negotiating with AT&T and executing on behalf of the Trust a Contribution Agreement or other collateral agreements necessary or appropriate for implementing the Contribution; (v) reasonably assisting AT&T in obtaining an exemption from the Department and satisfying any terms and conditions thereof; and (vi) reasonably complying with the conditions or limitations imposed on the Independent Fiduciary by such exemption.

Moreover, the Independent Fiduciary will authorize the Trustee to accept or dispose of the Preferred Interests, including by exercise of the Put Option or the Call Option, only after the Independent Fiduciary determines that to do so is consistent with the applicable transaction documents.

The IMA

23. Pursuant to the IMA, the Independent Fiduciary, in its capacity as investment manager to the Plan, shall have sole

authority and discretion to direct the Trustee with respect to the holding and disposition of the Preferred Interests and any AT&T Shares received by the Trust in exchange therefor pursuant to the Contribution Agreement. In performing its responsibilities as investment manager, the Independent Fiduciary shall value the Preferred Interests once each calendar quarter using the methodology contained in the valuation report delivered pursuant to the Independent Fiduciary Agreement (absent extraordinary circumstances), and report such value to the Committee within 30 days of the quarter end and shall provide, among other things, an estimate of the year end valuation within five (5) business days of the end of each year. In addition, the Independent Fiduciary shall have the authority, to be exercised in its sole discretion: (i) to exercise all rights of the Trust with respect to the Preferred Interests, as set out in (and subject to the terms of) the Contribution Agreement, including but not limited to negotiating and accepting any amendments to the Contribution Agreement; (ii) to enter into any agreements for the benefit of the Plan and the Trust, in order to carry out the purposes of the IMA; (iii) with respect to the Preferred Interests only, to enter into any agreements, incur reasonable costs on behalf of the Plan and the Trust, or pledge or hypothecate assets of the Trust (except the

Preferred Interests or the Shares), in order to carry out interest rate swap transactions and credit default swap transactions, provided that the Independent Fiduciary shall provide written notice to the Committee at least 15 days prior to entering into any such transaction and, during such notice period, shall engage in good faith discussions with the Committee as to the advisability of entering into the transactions;¹⁰ and (iv) to make any decision to sell, loan hypothecate, pledge as security for a loan, exchange, convert, securitize, sell interests in, redeem, or otherwise dispose of, any and all of the AT&T Shares received by the Trust in exchange therefor pursuant to the Contribution Agreement.¹¹

The Independent Fiduciary's Appraisal Report

24. In an appraisal report dated October 18, 2012, the Independent Fiduciary estimated the fair market value of the

¹⁰ In carrying out its authority with respect to this responsibility, the Independent Fiduciary shall take into consideration the Trust's portfolio, including other similar investments held by the Trust.

¹¹ The Applicant notes that the foregoing responsibilities are subject only to the terms of the Preferred Interests and any conditions or limitations imposed on ownership and disposition of the Preferred Interests under the Contribution Agreement or in the proposed exemption, if granted, and applicable law.

Preferred Interests as of August 13, 2012, to be \$9.573 billion (or \$29.91 per Preferred Interest).

25. The Independent Fiduciary states that in estimating the fair market value of the Preferred Interests, the Independent Fiduciary, among other things, applied valuation methodologies that are generally accepted, including a discounted cash flow analysis of the Preferred Interests' expected Distributions and purchase proceeds, reviewed relevant investment and financial studies, and conducted other such analyses deemed appropriate. In its discounted cash flow analysis, the Independent Fiduciary has considered the appropriate discount rate at which the Preferred Interests' Distributions should be valued (as of the Contribution Date), the credit quality of AT&T Inc. and the Issuer, an appropriate valuation discount because the Preferred Interests are not publicly traded and therefore, illiquid, and a further liquidity discount because a purchase of the Preferred Interests may be settled in the form of unregistered AT&T Inc. common equity.

The Independent Fiduciary's Opinion

26. The Independent Fiduciary represents that it negotiated the terms and conditions of the Preferred Interests on behalf of the Plan over several months. The Independent

Fiduciary represents that, members of its team,¹² consisting of persons who have extensive financial management experience as senior executives of major corporations and investment banks or who have many years of experience as ERISA fiduciary law experts, engaged with senior officers of AT&T in numerous discussions concerning the nature of Preferred Interests and their terms and conditions. In addition, in order to determine whether the Contribution would be prudent and in the best interest of the Plan and its participants and beneficiaries, the Independent Fiduciary represents that it used the services of its in-house security analyst to determine the value of the Issuer and the value of the Preferred Interests. Those valuations will be updated to the Contribution Date.

27. Based on its aforementioned analysis of the Preferred Interests and the Issuer, the Independent Fiduciary has concluded that it is prudent for the Plan to accept the

¹² The Independent Fiduciary's team members include Stephen R. Wilson (former CFO of RJR Nabisco, The Reader's Digest Association, and Reckitt & Colman plc), Steven C. Baum (former Managing Partner of Marks Paneth & Shron), Norman H. Brown Jr. (former Managing Director of Donaldson Lufkin & Jenrette), Anthony A. Dreyspool (ERISA attorney and author of the book ERISA Fiduciary Law for Non-Lawyers), Alain Lebec (former Vice Chairman of Merrill Lynch Investment Banking), Donald Walkovik (former Senior Partner at Sullivan & Cromwell) and Charles O. Svenson (attorney and investment banker with Dewey Ballantine Busby Palmer & Wood, Goldman Sachs, and Donaldson Lufkin & Jenrette).

Contribution and that the Contribution is in the interests of the Plan and its participants and beneficiaries for the following reasons. With the fair market value of the Contribution estimated to be \$9.2-\$9.5 billion, the Independent Fiduciary states that the Contribution will be well in excess of the legally required contribution to the Plan. Thus, the Independent Fiduciary states that the proposed Contribution would far exceed what AT&T represents it would contribute if it were to make only a cash contribution equal to its minimum funding requirement.

28. Further, the Independent Fiduciary has determined that the cash flows of the Issuer, which is one of the largest wireless telecommunications providers in the United States and one of the most profitable and fastest growing business segments in AT&T's corporate structure, are large enough to cover the annual cash distributions on the Preferred Interests, which are senior preferred interests of the Issuer. In addition, the Independent Fiduciary opines that the cumulative annual cash distribution rate of the Preferred Interests (\$1.75 per annum per Preferred Interest) is very favorable compared to income returns that could be obtained on prudent investments under current market conditions. In that respect, the Independent Fiduciary states that AT&T Inc. has represented that the

expected annual cash flow payable on the Preferred Interests will exceed the 2013 minimum required funding contribution to the Trust, and as noted in the Independent Fiduciary's valuation report, the distribution payment rate is significantly above the yields on comparable fixed income securities.

29. The Independent Fiduciary also states that the restriction on payment of dividends on AT&T Shares or purchases by AT&T Inc. of AT&T Shares if Distributions on any Preferred Interests are in arrears will be an incentive to the Issuer to pay all Distributions on a regular basis. Further, the Independent Fiduciary states that if the Issuer misses any Distribution payment, the cumulative Distribution feature means that the Plan will not lose any current return on the Preferred Interests. As noted above, the Independent Fiduciary has also determined in its valuation of the Issuer that the Issuer generates an annual cash flow after capital expenses to easily cover the annual \$560 million expected Distribution on the Preferred Interests.

30. The Independent Fiduciary has also concluded that the Contribution is protective of the rights of participants and beneficiaries of the Plan because the terms of and conditions of the Preferred Interests, including the Put Option and Call Option, are protective of the interests of the Plan and Trust

and are as favorable to the Plan as such terms would be if negotiated at arm's length under similar circumstances between unrelated third parties. Further, the Independent Fiduciary states that it will monitor the continued holding of the Preferred Interests by the Trust, will manage the holding and disposition of the Preferred Interests pursuant to the IMA and will have sole authority on behalf of the Plan to take whatever action the Independent Fiduciary deems appropriate to insure that the transaction remains in the interest of the Plan. Finally, the Independent Fiduciary represents that it will enforce compliance with all conditions and obligations imposed on any party dealing with the Plan by proposed exemption, if granted, and manage any AT&T Shares received by the Trust in exchange for the Preferred Interests pursuant to the Call Option and Put Option until such time as the relief provided herein is no longer needed.

The Registration Rights Agreement

31. As stated above, pursuant to the Contribution Agreement, AT&T has the right, in its sole discretion, to pay the purchase amount for any Preferred Interests purchased pursuant to the Put Option or the Call Option, in whole or in part, by delivering AT&T Shares to the Trust. In connection

with the foregoing, the Independent Fiduciary, acting on behalf of the Plan and the Trust, has negotiated the terms of the Registration Rights Agreement with AT&T. The Registration Rights Agreement governs the rights and obligations of the parties with respect to registration rights, transfers and other matters relating to the AT&T Shares (if any) that may be delivered to the Trust pursuant to the Call Option or the Put Option. The Registration Rights Agreement terminates on the second anniversary of the date on which AT&T Shares are delivered to the Trust in the last exercise of the Put Option or the Call Option, as the case may be.

32. The Registration Rights Agreement provides that AT&T will file a Shelf Registration¹³ on Form S-3 within thirty (30) days following delivery of AT&T Shares to the Trust upon exercise of the Call or Put Rights (the Registration Trigger). According to the Applicant, this arrangement takes advantage of AT&T's status as a "well-known seasoned issuer" (in short, a large public company by market capitalization, referred to as a "WKSI") and the ability to file a registration statement that is

¹³ The Department understands that shelf registration is a process authorized by the SEC under Rule 415 that allows a single registration document to be filed by a company that permits the issuance of multiple securities. Form S-3 issuers may use shelf-registration to register securities that will be offered on an immediate, continuous or delayed basis.

automatically effective upon filing. The Applicant states further that the Trust would be able to promptly sell AT&T Shares in a public offering four (4) times in any twelve (12) month period with only fifteen (15) business days' notice given to AT&T. According to AT&T and the Independent Fiduciary, fifteen (15) days' notice is reasonable, since a registered underwritten offering could require the Trustee to engage underwriters, etc., will require AT&T to prepare documentation and will require significant involvement from AT&T's outside auditors, all of which will involve some period of time.

33. The Shelf Registration would be maintained and renewed while the Independent Fiduciary continues to manage either the Preferred Interests or AT&T Shares.¹⁴ The Applicant states that this permits the Trust to sell AT&T Shares during a thirty (30) day window period that begins immediately following AT&T's quarterly earnings release (a "Window"). Each take down under the shelf registration would be for at least \$500 million and the sale would be accomplished in a public offering. According to the Applicant, this would permit the Trust to sell all or a part of the AT&T Shares quickly during a Window period in the

¹⁴ The Independent Fiduciary explains that AT&T Shares will be registered continuously in 3-year intervals (with AT&T having obligations to "renew" the S-3 every 3 years). According to the Independent Fiduciary, this arrangement is fairly standard for Shelf Registrations.

offering structure deemed by the Independent Fiduciary to be most advantageous. AT&T will have a right-of-first-refusal to purchase AT&T Shares offered for sale by the Plan for two years after the Plan's receipt of such AT&T Shares. After two years, AT&T will have the right to repurchase shares held by the Plan at a 10% premium to the then current market price.

34. The Applicant represents that, in addition to the Shelf Registration, for smaller sales, the Independent Fiduciary would have the ability to make an unlimited number of unregistered sales under Rule 144 with only five (5) business days' notice to AT&T (once the six (6) month holding period of Rule 144 is satisfied).¹⁵ The Applicant represents that, other than the provisions of Rule 144, there is no limit on the number of times this provision may be used or a minimum size.¹⁶

35. The Applicant represents that AT&T would have the authority to notify the Independent Fiduciary that sales of AT&T Shares are suspended for up to two (2) blackout periods that may not exceed 60 days, in the aggregate, in any twelve (12) month

¹⁵ The Applicant notes that the Trust can also use Rule 144 to sell AT&T Shares during any Window period described above, in addition to such sales that may take place outside the Window period.

¹⁶ The Independent Fiduciary notes that because AT&T Shares sold pursuant to Rule 144 would not be registered, they would likely sell at a discount of at least 10%.

period. According to the Applicant, the ability to suspend sales of AT&T Shares pursuant to blackout periods are designed to allow AT&T to avoid disclosing time-sensitive or confidential information relating to transactions or other corporate activities that otherwise would be disclosable if a securities sale were contemplated. According to the Applicant, blackout periods like these are standard features of longer term continuous registration arrangements, and protect both AT&T and its shareholders, including the Trust.¹⁷

36. Finally, in addition to the repurchase obligations above, the Independent Fiduciary notes that the Plan can require AT&T to repurchase the AT&T Shares if, during the final 180 days of the term of the Registration Rights Agreement, there is not an S-3 available for the Plan to sell its AT&T Shares (the theory being that the Plan should have a simple public liquidity option available to it in the final months of the term).

Additional Cash Contribution and "Lookback" Calculation

¹⁷ The Applicant represents further that the Registration Rights Agreement also contains provisions that would address AT&T's failure to comply with certain obligations, and that provide alternative mechanisms for effecting public offerings in the event AT&T loses its status as a "well-known seasoned issuer" for any reason.

37. The Applicant states that AT&T has agreed to make cash contributions to the Trust in addition to the Contribution, in order to approximate the minimum required contributions that would otherwise be payable to the Plan by AT&T in cash, computed as if the Contribution had never been made, for as long as relief under the proposed exemption is in effect.¹⁸ Therefore, the Applicant has agreed to make the following payments to the Trust: (i) lump sum cash payments (the Lump Sum Payments); and (ii) a "lookback" payment (the Net Lookback Amount). Both types of such payments will be made in accordance with the terms described below.

38. With respect to the Lump Sum Payments, the Applicant states that AT&T will make cash contributions to the Trust totaling \$700 million, payable as follows: (i) \$175 million paid on the Contribution Date; and (ii) \$175 million paid no later than the due date for AT&T's tax return for each of the next three years (i.e., 2014, 2015 and 2016).

39. The Applicant represents that the calculation of the Net Lookback Amount and the timing of such contribution are

¹⁸ The Department notes that the additional cash payments agreed to by AT&T lend strength to the Applicant's proposition that the Contribution constitutes an additional, voluntary contribution of assets to the Plan. As the Plan is entitled to receive cash in respect of its minimum required contributions, the additional cash payments represent AT&T's attempted satisfaction of its burden in this respect.

determined as follows: Looking back from January 1, 2018, AT&T shall re-calculate its minimum required contribution after the application of any carryover balances (the Mandatory Funding Obligation) as of the beginning of each of the 2013 through 2017 Plan years with the following modifications to arrive at the "Gross Lookback Amount": (i) the calculation of the Mandatory Funding Obligation will use actuarial assumptions in effect for funding purposes as of the first day of the Plan year for which the minimum required contribution is calculated, and assets will assume Mandatory Funding Obligations are contributed when required for the 2013 through 2017 Plan Years and earn actual Trust returns; (ii) the value of Preferred Interests will be disregarded; (iii) the actual cash contributions to the Trust, including the cash contributions made in connection with the Lump Sum Payments and the Distributions will be disregarded; and (iv) earnings on all cash contributions, including cash contributions made in connection with the Lump Sum Payments and the earnings on the Distributions will be included. The Applicant represents that the Gross Lookback Amount is the sum of the Mandatory Funding Obligation for each of the 2013 through 2017 Plan years.

The Applicant further represents that the Gross Lookback Amount shall be reduced by the following items to arrive at the

the Net Lookback Amount: (i) actual cash contributions to the Trust, including cash contributions made in connection with the Lump Sum Payments and Distributions paid to the Trust prior to the date the Net Lookback Amount is paid to the Trust; (ii) the value of the Preferred Interests as of January 1, 2018, that is not in excess of 10% of the total value of the Trust's assets;¹⁹ and (iii) any consideration paid to the Trust pursuant to any exercise of the Put or Call Options at any time prior to the date that the Net Lookback Amount is paid to the Trust. The Applicant states that the Net Lookback Amount will be paid to the Trust no later than September 15 of the year following the year of the calculation of the Net Lookback Amount.²⁰ The Independent Fiduciary will determine the value of the Preferred Interests for purposes of the Lookback calculation.

NOTICE TO INTERESTED PERSONS

It is represented that AT&T Inc. shall provide notification (the Notice) of the publication of the proposed exemption (the

¹⁹ The determination of the total value of the Trust's assets includes the Preferred Interests and the actual cash contributions to the Trust, including cash contributions made in connection with the Lump Sum Payments and Distributions (including contribution receivables).

²⁰ The Applicant states that the payment date is based on when the Trust values are definitely determinable.

Proposed Exemption) in the Federal Register to interested persons in the following manner. The Notice shall be delivered via e-mail to (i) all former employees and retirees who have consented to and enrolled in electronic delivery of benefits information and (ii) all currently active employees (which includes all non-bargained employees and bargained employees) who participate in the Plan and who either have e-mail access as a part of performing their job or have consented to and enrolled in electronic delivery. Such notification will consist of an explanatory cover letter which will contain a link to a summary of the Proposed Exemption (the Summary) and a link to the Proposed Exemption, and will be delivered within two (2) business days of the date of publication of the Notice in the Federal Register. The e-mail system will notify AT&T Inc. of any delivery failures to (i) active employees with an AT&T e-mail address on the day that the e-mail notifications are sent and (ii) active employees using an external e-mail address within one business day after the e-mail notifications are sent. For each active employee whose e-mail transmission fails, AT&T Inc. will send the cover letter, the Summary and a copy of the Proposed Exemption via first class US mail to such person's home address. Such mailing will be sent (i) to active employees with an AT&T e-mail address within one business day after the failed

e-mail transmission and (ii) to active employees using an external e-mail address within two business days after the failed e-mail transmission.

The Notice shall also be delivered via first class US mail to the home addresses of (i) the approximately 43,000 actively employed bargained employees who participate in the Plan and who do not have e-mail access as part of performing their job or who have not consented to electronic delivery of benefits information and (ii) the estimated 280,000 former employees, retirees, alternate payees, and beneficiaries with benefits under the Plan who have not consented to electronic delivery of benefits information. Such notification shall consist of a cover letter, a Summary and a copy of the Proposed Exemption.

The Trustee and the Independent Fiduciary shall receive the Notice via first class US mail. Such notification shall consist of a cover letter, a Summary and a copy of the Proposed Exemption. In addition, AT&T Inc. or its legal counsel will e-mail such documents to the Trustee and the Independent Fiduciary no later than two (2) business days of the date of publication of the Notice in the Federal Register. AT&T Inc. will provide notification to interested persons within 25 calendar days of the date of publication of the Notice in the Federal Register. All written comments and/or requests for a hearing must be

received by the Department from interested persons no later than 55 days after publication of the Notice in the Federal Register.

All comments will be made available to the public.

Warning: Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the

Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

PROPOSED EXEMPTION

Based on the foregoing facts and representations submitted by the Applicant, the Department is considering granting an exemption under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974, as amended (ERISA or the Act) and section 4975(c)(2) of the Internal Revenue Code of 1986, as amended (the Code), and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (76 FR 66637, 66644, October 27, 2011), as follows:²¹

SECTION I. COVERED TRANSACTIONS

If the proposed exemption is granted, the restrictions of sections 406(a)(1)(A), 406(a)(1)(B), 406(a)(1)(D), 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A), 4975(c)(1)(B), 4975(c)(1)(D) and 4975(c)(1)(E) of the Code, shall not apply, effective September 1, 2013, to the following transactions, provided that the conditions described in Section II are satisfied:

²¹ For purposes of this proposed exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to corresponding provisions of the Code.

(a) The one-time, in-kind contribution (the Contribution) by AT&T of 320 million series A Cumulative Perpetual Preferred Membership Interests (the Preferred Interests) of AT&T Mobility II LLC (the Issuer) to the SBC Master Pension Trust (the Trust), which holds assets of the AT&T Pension Benefit Plan (the Plan) in accordance with the terms of the Contribution Agreement;

(b) The holding of the Preferred Interests by the Trust on behalf of the Plan;

(c) The disposition of the Preferred Interests by the Trust in connection with the exercise of the Put Option by the Independent Fiduciary, in accordance with the terms of the Contribution Agreement;

(d) The disposition of the Preferred Interests by the Independent Fiduciary on behalf of the Trust in connection with the exercise of the Call Option, in accordance with the terms of the Contribution Agreement;

(e) The disposition, restructuring, adjustment, or recapitalization of the Preferred Interests resulting from a Change of Control of the Issuer, in accordance with the terms of the Contribution Agreement;

(f) The acquisition and holding by the Trust of shares in AT&T common stock (the AT&T Shares) received in connection with the exercise of the Put Option or the Call Option, in accordance

with the terms of the Contribution Agreement, to the extent such acquisition and holding is not permitted by section 407(a) of ERISA; and

(g) The deferred payment by AT&T to the Trust of any amounts due under the Call Option or the Put Option, in accordance with the terms of the Contribution Agreement.

SECTION II. CONDITIONS

Relief for the transactions described in Section I of this proposed exemption is conditioned upon satisfaction of the following requirements:

(a) The Preferred Interests have a liquidation value of \$25 per Preferred Interest and carry distribution rights of \$1.75 per Preferred Interest, or \$560 million per year in cash payable to the Trust (the Distributions) in accordance with the terms of the Contribution Agreement;

(b) The Plan incurs no fees, costs or other charges in connection with the transactions described in paragraphs (a)-(g) of Section I, other than fees paid by the Plan to the Independent Fiduciary for duties required by this proposed exemption, if granted, as described herein;

(c) AT&T makes \$700 million in additional cash payments (the Additional Payments) to the Trust in the following manner:

(1) \$175 million paid at the time the Preferred Interests are contributed to the Trust; and

(2) \$175 million paid no later than the due date for AT&T's tax return for each of the next three years (i.e., 2014, 2015 and 2016);

(d) AT&T makes an additional cash contribution to the Trust, equal to the "Net Lookback Amount," no later than September 15, 2019. The Net Lookback Amount will be calculated as follows:

(1) Looking back from January 1, 2018, AT&T will recalculate the minimum required contribution to the Plan after application of any carryover balances (the Mandatory Funding Obligation) for each of the 2013 through 2017 Plan Years, subject to the following requirements:

(i) The calculation of each Mandatory Funding Obligation will use actuarial assumptions in effect for funding purposes as of the first day of the Plan Year for which such contribution is calculated, and the calculation of plan assets will assume each Mandatory Funding Obligation is contributed when required for 2013 through 2017 Plan Years and earn actual Trust returns for each such year;

(ii) The value of the Preferred Interests will be disregarded;

(iii) Actual cash contributions to the Trust, including the Additional Payments and Distributions, will be disregarded; and

(iv) Earnings on all cash contributions, including any earnings on the Additional Payments and Distributions, will be included;

(2) The amounts described in Section (II)(d)(1)(i)-(iv), in the aggregate (the Gross Lookback Amount), shall be reduced by the following items to arrive at the Net Lookback Amount:

(i) Actual cash contributions to the Trust, including the Additional Payments and the Distributions paid to the Trust prior to the date the Net Lookback Amount is paid to the Trust;

(ii) The value of the Preferred Interests as of January 1, 2018, that is not in excess of 10% of the total value of the Trust's assets, and for the purpose of this clause (ii), the determination of the total value of the Trust's assets includes the actual cash contributions to the Trust, such as cash contributions made in connection with the Lump Sum Payments and Distributions (including contribution receivables); and

(iii) Any consideration paid to the Trust pursuant to any exercise of the Put or Call Options at any time prior to the date the Net Lookback Amount is paid to the Trust;

(e) An Independent Fiduciary, acting solely on behalf of the Plan and the Trust, represents the Plan's interests for all purposes with respect to the Preferred Interests, and determines, prior to entering into any of the transactions described in Section I (a)-(g), that each such transaction is in the interest of the Plan.

(f) The Independent Fiduciary will have complete discretion regarding the disposition of AT&T Shares in accordance with the IMA and the Registration Rights Agreement;

(g) The Independent Fiduciary negotiated and approved, on behalf of the Plan and the Trust, the terms and conditions of the Contribution Agreement, including the terms of the Preferred Interests, the Call Option and the Put Option, as well as the terms of the IMA and Registration Rights Agreement;

(h) The Independent Fiduciary manages the holding and disposition of the Preferred Interests and takes whatever actions it deems necessary to protect the rights of the Plan with respect to the Preferred Interests or the AT&T Shares received in connection with the exercise of the Call Option or the Put Option;

(i) The Independent Fiduciary monitors the credit rating of AT&T Inc. for purposes of determining whether the Put Option is triggered due to AT&T Inc. being rated below investment grade for two consecutive calendar quarters by at least two of the following rating agencies: Standard & Poor's Ratings Services, Moody's Investor Services, Inc. or FitchRatings, Inc.;

(j) An Independent Appraiser, acting on behalf of the Plan, determines the fair market value of the Preferred Interests contributed to the Trust on behalf of the Plan as of the date of the Contribution and while the Preferred Interests are held on behalf of the Plan, and for all purposes under this exemption, if granted, consistent with sound principles of valuation;

(k) The Preferred Interests rank senior to any other equity holders of the Issuer in respect of: the right to receive Distributions; and the right to receive Distributions or payments out of the assets of the Issuer upon liquidation of the Issuer, in accordance with the terms of the Contribution Agreement;

(l) In the event that the Distributions are in arrears, AT&T is restricted from making certain transfers of cash out of the Issuer or declaring dividends on and repurchasing shares of AT&T stock, in accordance with the terms of the Contribution

Agreement;

(m) The Committee and the Independent Fiduciary maintain for a period of six (6) years from the date any Preferred Interests are contributed to the Trust, for a period of six (6) years from the date of any disposition of Preferred Interests by the Trust or the purchase of Preferred Interests by AT&T, and for a period of six (6) years from the last date that the Trust holds AT&T Shares received in connection with the exercise of the Put Option or the Call Option in violation of section 406(a)(2) of ERISA, in a manner that is convenient and accessible for audit and examination, the records necessary to enable the persons described in paragraph (n)(1) below to determine whether conditions of this exemption have been met, except that (i) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Committee and/or the Independent Fiduciary, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest other than the Committee or the Independent Fiduciary shall be subject to the civil penalty that may be assessed under ERISA section 502(i) if the records are not maintained, or are not available for examination as required by paragraph (n) below; and

(n) (1) Except as provided in section (2) of this paragraph and notwithstanding any provisions of subsections (a) (2) and (b) of section 504 of ERISA, the records referred to in paragraph (m) above shall be unconditionally available at their customary location during normal business hours to:

(i) any duly authorized employee or representative of the Department or the Internal Revenue Service;

(ii) AT&T or any duly authorized representative of AT&T;

(iii) the Independent Fiduciary or any duly authorized representative of the Independent Fiduciary;

(iv) the Committee or any duly authorized representative of the Committee; and

(v) any participant or beneficiary of the Plan, or any duly authorized representative of such participant or beneficiary;

(2) None of the persons described above in paragraph (n) (1) (iii) or (v) shall be authorized to examine the trade secrets of AT&T or commercial or financial information that is privileged or confidential, and should AT&T refuse to disclose information on the basis that such information is exempt from disclosure; AT&T shall by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

III. DEFINITIONS

For purposes of this proposed exemption:

(a) The term "Affiliate" means:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person;

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

For the purposes of clause (a)(1) above, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(b) The term "Committee" means the AT&T Inc. Benefit Plan Investment Committee, which has been delegated the power and authority to appoint and remove trustees and investment managers, and to enter into and amend trust agreements and other agreements relating to the management of Plan assets and, in respect of such power and authority, has been designated by AT&T Services, Inc. as a "named fiduciary" of the Plan.

(c) The term "Trust" means the SBC Master Pension Trust, established and maintained pursuant to an agreement between AT&T

Inc. and JPMorgan Chase Bank, N.A., as amended and restated effective as of February 1, 2012.

(d) The term "IMA" means the Investment Management Agreement by and between AT&T Services, Inc., the AT&T Benefit Plan Investment Committee, AT&T Inc. and Brock Fiduciary Services LLC, effective on or about September 9, 2013.

(e) The term "Contribution Agreement" means the Contribution Agreement between Brock Fiduciary Services LLC, JPMorgan Chase Bank, N.A., as Directed Trustee of the Trust, AT&T Inc. and AT&T Mobility II LLC, dated August 30, 2013, which, among other things, sets forth the terms and conditions of the Contribution, the Put Option and the Call Option.

(f) The term "Registration Rights Agreement" means the Registration Rights Agreement by and among AT&T Inc. the SBC Master Pension Trust and Brock Fiduciary Services LLC, as Independent Fiduciary and investment manager with respect to the AT&T Pension Benefit Plan, a participating plan in the SBC Master Pension Trust, dated August 30, 2013.

(g) The term "Change of Control" means (i) the occurrence of any merger, reorganization or other transaction that results in AT&T, directly or indirectly, owning less than fifty percent of the capital or profits interests (where the Issuer remains taxable as a partnership), or equity (if the Issuer becomes

taxable as a corporation), of the Issuer, exclusive of the Preferred Interests, or (ii) a transfer of fifty percent or more of the Plan liabilities and Trust assets to an entity not under common control with AT&T Inc.

(h) The term "Independent Fiduciary" means Brock Fiduciary Services LLC and any other fiduciary who (1) is independent or unrelated to AT&T Inc. and its affiliates and has the appropriate training, experience, and facilities to act on behalf of the Plan regarding the covered transactions in accordance with the fiduciary duties and responsibilities prescribed by ERISA (including, if necessary, the responsibility to seek the counsel of knowledgeable advisors to assist in its compliance with ERISA), and (2) if relevant, succeeds Brock Fiduciary Services LLC pursuant to the terms of the Investment Management Agreement, Independent Fiduciary Agreement, or other relevant agreement. The Independent Fiduciary will not be deemed to be independent of and unrelated to AT&T Inc. and its affiliates if: (i) such fiduciary directly or indirectly controls, is controlled by or is under common control, with AT&T and its affiliates; (ii) such fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this proposed exemption other than for acting as an Independent Fiduciary in connection with

the transactions described herein, provided that the amount or payment of such compensation is not contingent upon, or in any way affected by, the Independent Fiduciary's ultimate decision; and (iii) the annual gross revenue received by the Independent Fiduciary, during any year of its engagement, from AT&T Inc. and its affiliates, exceeds two percent (2%) of the Independent Fiduciary's annual gross revenue from all sources (for federal income tax purposes) for its prior tax year. For the purpose of this Section III(h), the term "control" has the meaning set forth in Section III(a) above.

(i) The term "Put Option" means the right of the Independent Fiduciary to require AT&T to purchase the Preferred Interests from the Trust, pursuant to the terms and conditions set forth in the Contribution Agreement, at the Option Price per Preferred Interest at any time and from time to time on or after the earliest of: (1) the first date that the Issuer's debt-to-total-capitalization ratio (as defined in the Contribution Agreement) exceeds that of AT&T; (2) the date on which AT&T, Inc. is rated below investment grade for two consecutive calendar quarters by at least two of the following rating agencies: (x) Standard & Poor's Ratings Services, (y) Moody's Investor Services, Inc., or (z) FitchRatings, Inc.; (3) a Change

of Control; or (4) the seventh anniversary of the date on which the Preferred Interests are contributed to the Trust.

(j) The term "Call Option" means the right of AT&T to purchase all or any portion of the Preferred Interests from the Trust, pursuant to the terms and conditions set forth in the Contribution Agreement, at a price per Preferred Interest equal to the Option Price per Preferred Interest, at any time and from time to time: (1) during the twelve month period following the date AT&T issues an annual report reflecting that the Plan is fully funded as determined under U.S. GAAP and calculated by including the fair market value of the Preferred Interests; (2) on or after a Change of Control; or (3) on or after the fifth anniversary of the date on which the Preferred Interests are contributed to the Trust.

(k) The term "Trustee" means JPMorgan Chase Bank, N.A. or any successor trustee retained by the Trust to hold the assets of the Trust, acting solely as a directed trustee with no discretionary authority over the investment of Trust assets.

(l) The term "Option Price" means an amount equal to the greater of: (1) the fair market value of the Preferred Interest, determined by the Independent Fiduciary as of the last date of the calendar quarter preceding the date of notice of exercise of a Call Option or Put Option, as the case may be, without regard

to the occurrence of any prior event described in clauses (1) or (2) of the definition of Call Option or in clauses (1) through (3) of the definition of Put Option, or, for the portion of Preferred Interests that are not immediately purchased by AT&T pursuant to the Put Option because of the limitation on AT&T's obligation to purchase the Preferred Interests pursuant to the Put Option to no more than 106,666,667 Preferred Interests in any twelve month period, the fair market value of the Preferred Interest, determined by the Independent Fiduciary as of the last date of the calendar quarter immediately preceding the date such portion of the Preferred Interest is actually purchased by AT&T Inc., without regard to the occurrence of any prior event described in clauses (1) or (2) of the definition of Call Option or in clauses (1) through (3) of the definition of Put Option; and (2) the sum of \$25.00 (*i.e.*, \$8 billion in the aggregate) plus any accrued and unpaid Distributions.

(m) The term "Independent Fiduciary Agreement" means the Independent Fiduciary Agreement dated May 1, 2012, as amended, by and among AT&T Services, AT&T Inc. and Brock.

(n) The term "Independent Appraiser" means an individual or entity meeting the definition of a "Qualified Independent Appraiser" under 25 CFR 2570.31(i) retained to determine, on behalf of the Plan, the fair market value of the Preferred

Interests as of the date of the Contribution and while the Preferred Interests are held on behalf of the Plan. For avoidance of doubt, the Independent Appraiser may be the Independent Fiduciary, provided it qualifies as a Qualified Independent Appraiser.

Signed at Washington, DC, this 3rd day of September, 2013.

Lyssa Hall
Director of Exemption
Determinations
Employee Benefits Security
Administration
U.S. Department of Labor

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